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HT02-012/018

Application no. 10/661,039



March 11, 2005

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Attn: Art Unit 2818 - Examiner Dang, Phuc T.

FROM: George O. Saile, Reg. No. 19,572
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Poughkeepsie, N.Y. 12603

SUBJECT: Serial #: 10/661,039
File Date: 09/12/2003
Inventor: Tai Min
Examiner: Dang, Phuc T.
Art Unit: 2818
Title: Magnetic Random Access Memory Designs with Patterned
and Stabilized Magnetic Shields

RESPONSE TO RESTRICTION REQUIREMENT

Dear Sir:

This is in response to the Restriction Requirement in the Office Action dated Feb. 11, 2005. In that office action, restriction was required to one of the following Inventions under

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents P.O. Box 1450, Alexandria, VA 22313-1450 on Mar. 11, 2005.

Signature 
Stephen B. Ackerman, Reg. No. 37,761

Date: Mar. 11, 2005

35 U.S.C. 121:

The inventions stated are:

I - Claims 1-52, drawn to an apparatus of a magnetically shielded magnetic tunnel junction (MTJ) cell, classified in class 257, subclass 295, and

II - Claims 53-87, drawn to a method of forming a magnetically shielded magnetic tunnel junction (MTJ) cell, classified in class 438, subclass 3.

Applicant provisionally elects to be examined the Invention described by the Examiner as Group II - Claims 53-87, drawn to a process classified in Class 438, subclass 3. This election is made with traverse of the requirement under 37 C.F.R. 1.143 for the reasons given in the following paragraphs.

The Examiner is respectfully requested to reconsider the Requirement for Restriction in the Office Action.

The Examiner gives the reasons for the distinctness between Inventions I and II as (1) that the apparatus as claimed is not an obvious apparatus for making the product and the apparatus can be used to make other and materially different product, or (2) the product as claimed can be made by another and materially different apparatus (M.P.E.P. 806.05(g)). However, upon reading the process Claims against the "apparatus" (which are

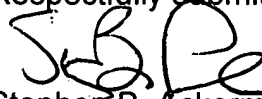
actually product) Claims one can readily see that the process Claims are directed to a method of forming "a method of forming a magnetically shielded magnetic tunnel junction (MTJ) cell", and that the "apparatus" claims are directed to "a magnetically shielded magnetic tunnel junction (MTJ) cell", and that it is necessary to obtain claims in both the process and "apparatus" (product) claim language. The process claims necessarily use the product and vice versa. The field of search must necessarily cover both the process class/subclass 438/3 and apparatus class/subclass 257/295, in addition to other related classes and subclasses, to provide a complete and adequate search. The fields of search for Groups I and II are clearly and necessarily co-extensive. The Examiner's suggestion that "the device of group I inventions could be made by a product from those of group II" is speculative and has nothing to do with the Claims as presented in this patent application.

Further, it is respectfully suggested that these reasons are insufficient to place the additional cost of second and third patent applications upon the applicants. Therefore, it is respectfully requested that the Examiner withdraw this restriction requirement for these reasons.

Withdrawal of the Restriction Requirement, and allowance of the present Patent Application, is respectfully requested.

It is requested that should there be any problems with this response, please call the undersigned Attorney at (845) 452-5863.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'S. B. Ackerman', with a stylized flourish at the end.

Stephen B. Ackerman, Reg. No, 37,761